

## April 26, 2001: "Sudan: The Atrocities Must Stop."

Remarks by Elliott Abrams, Chairman and Nina Shea, Commissioner

United States Commission on International Religious Freedom  
Before the Congressional Human Rights Caucus of the United States  
House of Representatives

April 26, 2001

Co-Chairman Wolf, Co-Chairman Lantos, and Caucus members: Good afternoon and thank you for this opportunity to speak on behalf of the United States Commission on International Religious Freedom.

In our first annual report issued last May 1, the Commission found that the government of Sudan was the world's most violent abuser of the right to freedom of religion and belief. Religion is a major factor in Sudan's civil war, which has dragged on for some 18 years now. The Sudanese government is committing genocidal atrocities against the civilian population in the south and the Nuba Mountains.

In light of these conditions, the Commission recommended that the Clinton Administration launch a comprehensive program of diplomatic and economic pressure to reverse the religious-freedom and human rights abuses in Sudan. And given the connection between oil development and the Sudanese government's prosecution of the war, we recommended that foreign companies engaged in the development of Sudan's oil and gas fields be prohibited from raising money in U.S. capital markets.

The situation in Sudan has gotten worse in the 11 months since the release of the Commission's report. The government of Sudan continues to commit egregious human rights abuses, including:

- widespread bombing of civilian and humanitarian targets;
- abduction and enslavement by government-sponsored militias;
- withholding food aid to cause starvation as a weapon of war;
- severe restrictions on religious freedom.

The Clinton Administration did take some steps to address the situation, including a successful diplomatic effort that defeated Sudan's bid for a seat on the United Nations Security Council. It also earmarked aid to communities in southern Sudan and to the political opposition - the National Democratic Alliance. But these actions fell well short of the comprehensive, sustained campaign the Commission believes is required to combat the Sudanese government's abuses.

This civil war has already cost 2 million lives and displaced 4 million people, and there is no significant movement toward peace. Since the Commission's 2000 Annual Report, the Sudanese government has stepped up its deliberate aerial bombing attacks on hospitals, schools, churches, markets, relief-organization compounds, and other clearly marked civilian or humanitarian installations. Organizations tracking these bombings count more than 150 incidents in the year 2000, including several attacks on clearly marked UN and private relief facilities. More than once, for example, the facilities of Samaritan's Purse, run by Franklin Graham, were hit. Now there is evidence the Sudanese government is using more-accurate and more-sophisticated weapons.

The Sudanese government continues to deny access for food-aid distribution, particularly in Western Upper Nile. This threatens the lives of many who are often short of food. In addition to the bombings I have just mentioned, in January of this year government militias attacked and destroyed a compound of the International Committee of the Red Cross in southern Sudan. In early March, a militia loyal to the government attacked and looted the aid compound of the Adventist Development and Relief Agency, killing a woman and a 12-year-old girl and taking four African relief workers hostage. (They were released several days later.) In addition, the government has allegedly tolerated the use of food aid for religious purposes - reports from credible sources tell us that UN-provided aid is being distributed on the condition that the hungry person convert to Islam.

Government forces and militias continue to kidnap women and children into slavery. According to UNICEF officials, just this January government-backed militias raided villages in Bahr-al-Ghazal, killing 11 people and abducting 122 women and children. The State Department estimates that between 12,000 and 15,000 women and children remained in captivity at the end of last year. Some children have been forced to convert to Islam.

The connection between oil development and the government's human rights abuses has become increasingly apparent over the past year. The discovery and drilling of reserves in Upper Nile province has led to a government scorched-earth policy to remove civilians from areas around oil installations. The government also reportedly uses

airstrips and roads built for oil projects to launch military operations. The State Department reports that oil revenues have allowed the government to buy more military hardware.

Sudan's oil development has attracted significant foreign investment in Sudan. While U.S. sanctions prohibit American companies from investing or doing business in Sudan, they do not prohibit foreign companies from doing so and then issuing securities in U.S. markets or listing their stocks on U.S. exchanges. Two Chinese companies involved in Sudan had initial public offerings (IPOs) of shares in U.S. markets in 2000: China National Petroleum Corporation - through its PetroChina subsidiary - and Sinopec. In addition, companies such as Talisman Energy, Royal Dutch Shell, Lundin Oil, and Total Elf Fina - all involved in Sudan - list shares on the New York Stock Exchange. Some are under public or shareholder pressure to divest their Sudan business interests.

Given these facts, the Commission recently issued an updated set of recommendations to the U.S. Administration and Congress. These will be contained in our second Annual May 1 Report, but we released them early because the new Administration is comprehensively reviewing U.S. policy towards Sudan - and because the gravity of the situation there warrants it. These recommendations were adopted unanimously by the Commission, with Commissioner Al-Marayati issuing concurring opinions on Recommendations 3 and 5.

Mr. Co-Chairman, I respectfully request that the Commission's full report, along with our remarks today, be entered into the record.

Towards the goals of implementing the kind of comprehensive, sustained campaign that the Commission feels is indispensable for changing Sudan's human rights and religious-freedom abuses, and of maximizing the use of the presidential "bully pulpit" to raise the awareness and involvement of the American public and the international community, the Commission makes the following recommendations:

-- First, the U.S. government should appoint a nationally prominent individual whose sole task is to work for a peaceful and just settlement of the war and an end to the Sudanese government's religious-freedom and humanitarian abuses. But the U.S. should not appoint an ambassador to Sudan in Khartoum at this time.

-- Second, the U.S. government should continue to increase the amount of its humanitarian assistance to the Sudanese people outside of Operation Lifeline Sudan (OLS) and should press OLS to deliver aid wherever it is needed, especially the Nuba Mountains, with or without the approval of the Sudanese government.

-- Third, the U.S. government should increase its assistance to southern Sudan under the Sudan Transitional Assistance for Rehabilitation (STAR) program and should provide aid to the National Democratic Alliance that would enhance its ability to participate in the peace process.

-- Fourth, the U.S. government should launch a major diplomatic initiative to stop the Sudanese government's bombing of civilian and humanitarian targets; ground attacks on civilian villages, feeding centers and hospitals; slave raids; and instigation of tribal warfare.

-- Fifth, the U.S. government should strengthen economic sanctions against Sudan and should urge other countries to do the same. The U.S. should prohibit any foreign company from raising capital or listing its securities in U.S. markets as long as it is engaged in Sudanese oil and gas development. The U.S. government should not permit the import of gum arabic from Sudan to the United States.

-- Sixth, companies that are doing business in Sudan should be required to disclose the nature and extent of that business in connection with their access to U.S. capital markets.

-- Seventh, the U.S. government should intensify its support for the negotiation of a peaceful settlement and for the Declaration of Principles, and make a just and lasting peace a top priority of this administration's global agenda.

-- And finally, the U.S. government should work to increase human rights and media reporting on abuses in Sudan, including supporting the placement of human rights monitors in southern Sudan and among refugees in surrounding countries.

That concludes the Commission's prepared remarks.

REPORT OF THE UNITED STATES COMMISSION ON INTERNATIONAL  
RELIGIOUS FREEDOM ON SUDAN

MARCH 21, 2001

## 1. Introduction

In its first annual report issued May 2000, the U.S. Commission on International Religious Freedom (the Commission) found that the government of Sudan was the world's most violent abuser of the right to freedom of religion and belief. The Commission also found that religion was a major factor in the ongoing civil war, and that religion and religious-freedom violations were intertwined with other human rights and humanitarian abuses in Sudan. In the Commission's view, the Sudanese government was committing genocidal atrocities against civilian populations in the southern part of the country and in the Nuba Mountains. In light of these conditions, the Commission recommended, among other things, that the Clinton administration launch a comprehensive program of diplomatic and economic pressures to stop human rights abuses in Sudan. Moreover, the Commission was disturbed by the reported connection between oil development and the Sudanese government's abuses, as well as by an initial public offering in the U.S. by a subsidiary of one of the government's joint-venture partners in the development of Sudan's oil fields. Therefore, the Commission recommended that foreign companies engaged in the development of Sudan's oil and gas fields be prohibited from raising money in U.S. capital markets.

The situation in Sudan has grown worse in the 10 months since the release of the Commission's report. The government of Sudan continues to commit egregious human rights abuses - including widespread bombing of civilian and humanitarian targets, abduction and enslavement by government-sponsored militias, manipulation of humanitarian assistance as a weapon of war, and severe restrictions on religious freedom. The relationship between oil and the government's actions has become clearer. While the Clinton administration did take some steps to address the situation, including successfully working to prevent Sudan from taking a seat at the UN Security Council and earmarking aid to communities in southern Sudan and to the political opposition (the National Democratic Alliance, or NDA), the issue of Sudan for the most part remained on the back burner of U.S. policy as the government's own interagency report acknowledged last year.<sup>i</sup> Its actions fell well short of the comprehensive, sustained campaign that the Commission believes is commensurate with the Sudanese government's abuses. The Commission urges the Bush administration to mount such a campaign, as detailed more fully in Section 3.

## 2. Human Rights and Religious Freedom Abuses in Sudan

The following is a brief description of some of the Sudanese government's egregious human rights abuses, focusing primarily on events since the Commission's last report.<sup>ii</sup>

The civil war that has cost the lives of some 2 million people and displaced 4 million others over the last 18 years continues unabated, with no significant movement for peace. The political opposition to President Omar Hassan Ahmad al-Bashir's ruling National Congress Party (NC) boycotted national elections held in December 2000, which continued the NC's grip on power. Shifting alliances among the ruling party and the political opposition - including a reported agreement between Hassan al-Turabi (head of the recently formed Popular National Congress and former ally of President al-Bashir) and the Sudan People's Liberation Movement/Army (SPLM/A) - have not, as yet, resulted in any significant change in the political order. The Sudanese government continues to suppress forcefully any political opposition, and commit grave human rights abuses both in its prosecution of the war and more generally throughout the areas of the country under its control. The SPLA and forces aligned with it continue to control much of the southern portion of the country and have reportedly committed some human rights abuses in areas they control.

#### a. Aerial Bombardments of Civilian and Humanitarian Targets

Since the Commission's May 1, 2000 annual report, the government of Sudan has intensified its deliberate bombing attacks on civilian and humanitarian targets. Bombings include hospitals, schools, churches, markets, relief-organization compounds, and other clearly civilian and humanitarian installations.<sup>iii</sup>

Organizations that have carefully tracked civilian bombings have compiled reports of more than 150 incidents in the year 2000.<sup>iv</sup> For example, in July and August 2000, Sudanese government warplanes bombed facilities of humanitarian groups operating under the UN's Operation Lifeline Sudan (OLS) umbrella. In December, two persons were reportedly killed and a church was destroyed in a bombing in Lui. It is believed that additional bombings go unreported because international aid workers are generally absent from the Nuba Mountains and areas east of Khartoum.<sup>v</sup>

These bombings not only kill and injure civilians (including children) and destroy property, but also disrupt humanitarian-relief activities and economic and social life and generally terrorize local populations. There is also evidence suggesting that the Sudanese government is using more-accurate and more-sophisticated - and thus more-deadly and damaging - weapons.<sup>vi</sup>

The government's bombing of civilian targets continued despite international awareness of the problem and public assurances by General al-Bashir in April 2000 that such bombings would cease. Because of the continued bombings, the Sudan Council of Churches, the New Sudan Council of Churches, and the Sudan Catholic Bishops' Conference have all called for an internationally enforced no-fly zone.

#### b. Interference with Humanitarian Assistance

The Sudanese government continues to deny access for humanitarian relief distribution, particularly in Western Upper Nile, through its control over relief flights pursuant to its agreement with the UN's Operation Lifeline Sudan (OLS). This denial of access threatens the lives of many in the region that reportedly face critical food shortages.vii

In addition, as noted above, the government has targeted humanitarian facilities for bombing and other attacks. In June 2000, an attack by government forces near a Roman Catholic mission in Gumriak reportedly killed 32 persons, including women and children. In January 2001, government-sponsored militias destroyed an International Committee of the Red Cross compound in the southern Sudan village of Chelkou.viii As a result of government bombings of humanitarian facilities, the UN, on its own initiative, suspended OLS relief flights in August for several weeks.

The government also allegedly has tolerated the use of humanitarian assistance for religious purposes. The Commission has received reports from credible sources - Anglican and Catholic Bishops in Sudan - that UN-provided humanitarian aid to the country's displaced and needy population is being distributed on the condition that the recipients convert to Islam. There are reports of instances where opposition forces have also interfered with the delivery of humanitarian aid. In February 2001, forces allied with the SPLA looted and damaged a UNICEF compound in the town of Nyal in southern Sudan.ix

### c. Slavery and Abductions

Government security forces and government-sponsored militias continue to abduct women and children into conditions of slavery. For example, in early January 2001, government-sponsored militias raided villages in Bahr al-Ghazal, killing 11 people and abducting 122 women and children according to UNICEF officials in Khartoum.x According to the State Department, some 12,000-15,000 women and children, mostly Dinka, remained in captivity at the end of 2000.xi Some non-governmental organizations place the number of slaves significantly higher.xii

Although the Sudanese government denies that slavery exists in Sudan (much less its own involvement or complicity in the practice), in May 1999 it established the Committee for the Eradication of the Abduction of Women and Children (CEAWAC). CEAWAC has been generally criticized for not operating in good faith and for being largely ineffectual in light of the extent of the problem. According to Human Rights Watch, although the CEAWAC has retrieved some slaves from their owners, the government made a deliberate decision "not to record the identity of the abductors or forced labor owners, let alone prosecute anyone involved."xiii In addition, according to UNICEF, the government has refused to give permission to transport 60 children who have been waiting for six months to be reunited with their families in SPLA-controlled areas.xiv

#### d. Religious Freedom

The Sudanese government has continued its assault on the religious freedom of non-Muslims as well as some Muslims (particularly those associated with the political opposition). In September 2000, the State Department named Sudan (for the second consecutive year) as a Country of Particular Concern (CPC) pursuant to the International Religious Freedom Act of 1998 (IRFA), finding that the government of Sudan had engaged in systematic, ongoing, and egregious violations of religious freedom.

Religious groups must be registered by the government to operate legally, and approval can be difficult to obtain. Unregistered groups cannot build places of worship or meet in public. Even registered groups face difficulties. For example, the government continues to deny permission to construct Roman Catholic churches. Certain Islamic orders - including orders associated with the political opposition - are denied permission to hold public assemblies. Government forces have bombed Christian churches, schools, hospitals, and mission facilities in the Nuba Mountains and southern Sudan. Apostasy from Islam is a crime punishable by death. According to the State Department, children from non-Muslim families who have been captured and sold into slavery are forced to convert to Islam.<sup>xv</sup>

As noted above, there are reports that humanitarian aid is used to coerce conversions. There are reports that security forces have harassed and detained persons on account of their religion.<sup>xvi</sup> On February 15, 2001, security forces entered the compound of the Sudan Catholic Bishops' Conference (SCBC) in Khartoum and confiscated six vehicles.<sup>xvii</sup>

#### e. Oil and Foreign Investment

The connection between oil development (and oil revenues) and the Sudanese government's human rights abuses has become increasingly apparent over the last year. First, the discovery and the drilling of oil reserves in the Upper Nile province has led to a "scorched earth" policy by the government to remove civilian populations from areas surrounding oil installations. Second, the government reportedly uses the oil facilities themselves (e.g. airstrips and roads) in staging military operations.<sup>xviii</sup>

Third, according to the State Department, oil revenues have allowed the government to increase its investment in military hardware.<sup>xix</sup>

Despite growing international awareness of this connection, oil development has attracted significant foreign investment in Sudan. U.S. economic sanctions prohibit U.S. companies from investing or doing business in Sudan. Current sanctions, however, do not prohibit



foreign companies from doing so, and the U.S. Department of Energy reports that the following are active in Sudan's oil and gas industry: Talisman Energy Corporation (Canada), TotalFina/Elf (France), Royal Dutch Shell and Trafigura Beheer B.V. (Netherlands), AGIP (Italy), Lundin Oil Corporation (Sweden),<sup>xx</sup> OMV (Austria), China National Petroleum Corporation (People's Republic of China),<sup>xxi</sup> Petrolia Nasional Berhad (Malaysia),<sup>xxii</sup> Gulf Petroleum Corporation (Qatar), and National Iranian Gas Company (Iran).<sup>xxiii</sup> In February 2001, Russian oil companies reportedly signed a memorandum of understanding with the Sudanese government regarding exploration and export of oil from two areas of the country.<sup>xxiv</sup>

As detailed in the Commission's first annual report, U.S. economic sanctions generally do not prohibit these foreign companies from issuing securities in U.S. markets or listing their shares on U.S. exchanges.<sup>xxv</sup>

Two Chinese companies involved in Sudan oil have raised money in U.S. capital markets in 2000. In April, the China National Petroleum Corporation (CNPC) and its wholly owned domestic subsidiary, PetroChina Company Limited (PetroChina), offered shares in PetroChina to U.S. investors. In October 2000, the China Petroleum & Chemical Corporation (Sinopec) offered shares in large quantities for sale on U.S. markets.<sup>xxvi</sup> The Wall Street Journal reported on October 11 that a Sinopec subsidiary (Zhongyuan Petroleum Corporation) had a joint venture in Sudan's oil fields with a unit of CNPC; that last summer Sinopec gave its entire interest in the Sudan venture to CNPC, the chief shareholder of its chief domestic rival, PetroChina, Ltd.; that it had not disclosed the value of any assets received from CNPC in return for this transfer; and that there was evidence that Sinopec's subsidiary continues to do business in Sudan's oil fields.<sup>xxvii</sup> In addition to these initial public offerings, companies such as Talisman, Royal Dutch Shell, Lundin Oil, and TotalFina/Elf all list securities on the New York Stock Exchange.

Some of the companies noted above that are doing business in Sudanese oil are reportedly under public or shareholder pressure to divest their Sudan business interests. In February 2001, the Sudan Inter-Agency Reference Group (SIARG), a coalition of Canadian NGOs, called for a divestment campaign against Talisman. According to Canadian news sources, the Royal Bank of Canada, which is one of the largest Talisman shareholders, is also being targeted for a boycott and other consumer action if it does not divest itself of Talisman shares. In addition, BP/Amoco is reportedly under pressure from activists and its shareholders to divest its stake in PetroChina, CNPC's subsidiary.<sup>xxviii</sup>

### 3. Commission Recommendations

The Commission concludes that the actions of the U.S. government toward the government of Sudan in the past year, while mixed, have not been commensurate with the appalling violations of

religious freedom and other human rights by that government, which have already reached genocidal proportions and have only worsened since this Commission's report last May.

In its first annual report dated May 1, 2000, the Commission proposed that the U.S. government launch a comprehensive 12-month plan that would immediately respond to the crisis in Sudan and reward measurable improvement or punish deterioration in the Sudanese government's record on religious freedom and other human rights.<sup>xxix</sup> The administration did not implement any comprehensive initiative of the scale that the Commission believes is necessary to address the situation. While the Clinton administration did take some initiatives in line with the Commission's recommendations, key elements of the Commission's plan appear to have been neglected.

Despite at least 150 reported aerial bombings of civilian hospitals, markets, churches, and schools by Khartoum's air force, the continued abduction and enslavement of women and children, and the government's "scorched earth" policy designed to remove populations from around oil facilities, President Clinton did not adequately employ the "bully pulpit" of his office to inform the American public or enlist international opposition to such crimes.<sup>xxx</sup> Any efforts to raise multilateral economic and diplomatic pressure on the Sudanese government had little apparent impact on Sudan's non-U.S. trade, foreign investment in its oil fields, or the government's acquisition of military hardware.<sup>xxxi</sup> While we hold European and other nations responsible for their foreign policies regarding Sudan, which have too often displayed indifference to the human rights violations there, we also believe that the U.S. government should have put more energy into diplomatic efforts to gain support for a more assertive policy.

Regrettably, the U.S. government has done nothing to advocate an internationally enforced ban on aerial bombardment of civilians in Sudan nor has it requested an investigation and adjudication of whether the Sudanese government has violated the Chemical Weapons Convention.<sup>xxxii</sup>

The State Department has not given its opinion whether the government of Sudan has violated the 1948 Genocide Convention.<sup>xxxiii</sup>

Nor has the U.S. government implemented the Commission's recommendations that companies active in Sudan's petroleum industry not be allowed further access to U.S. capital markets and that American investors be informed if the proceeds of their investments in foreign corporations will help finance that industry.<sup>xxxiv</sup>

Given the close connection between development of Sudan's oil resources (which would be minimal without foreign investment) and the Sudanese government's human rights abuses, the Commission continues to believe that the U.S. should not grant access to its capital markets to any foreign company involved in Sudan's oil industry, and in general should require greater disclosure by all companies doing business in Sudan so that U.S. investors are apprised of the nature and extent of that business. This year the Commission expands its recommendation

on disclosure to all companies doing business of any kind in Sudan so that investors can make fully informed decisions.<sup>xxxv</sup> Regarding our recommendation that the Securities and Exchange Commission (SEC) investigate the adequacy and reliability of filings made by a foreign corporation whose parent is the largest stakeholder in Sudan's oil pipeline, the SEC advised us that it does not independently investigate the accuracy of information in such filings.<sup>xxxvi</sup> In response to the Commission's recommendations to the Treasury Department that its Office of Foreign Assets Control (OFAC) investigate possible violations of U.S. Sudanese Sanctions Regulations, OFAC notified the Commission that it did not find any violation of the existing sanctions regime.<sup>xxxvii</sup> Because the Commission concludes that these regulations are too porous, it recommends they be tightened.<sup>xxxviii</sup>

The Clinton administration - with support from Congress - did approve a number of steps that reflect the Commission's recommendations. Among these steps - that were approved but not yet implemented - were providing communities in southern Sudan with radios, evacuation vehicles, and other equipment to warn and protect noncombatants against aerial bombings.<sup>xxxix</sup> The administration also approved administrative aid to the political opposition (NDA). U.S. aid to rebuild the civil and economic infrastructure of the south through the Sudan Transitional Assistance for Rehabilitation (STAR) program has expanded.<sup>xli</sup> The administration laudably continued to increase the portion of U.S. aid to Sudan that is delivered outside of the United Nations Operation Lifeline Sudan (OLS), thus unbound by Khartoum's bans on humanitarian delivery to rebel-controlled areas of need.<sup>xlii</sup> Nevertheless, most U.S. aid continues to flow through OLS. The Commission recommends below that the U.S. government continue to expand all of these forms of aid outside the UN system. However, the forest should not be lost for the trees. While all of these aid programs are needed to help ameliorate some of the effects of the Sudanese government's abhorrent policies, they do not by themselves represent the kind of coordinated public, diplomatic, and economic pressure that the Commission believes is necessary to change the Sudanese government's policies.

The Commission continues to believe that a comprehensive, coordinated strategy led on a priority basis by those at the highest levels of the U.S. government is necessary to address the humanitarian and human rights crisis in Sudan. Essential elements of this strategy include raising public awareness of the Sudanese government's human rights abuses, consistent condemnation of those abuses, and employing and advocating a variety of bilateral and multilateral pressures on the Sudanese government until it makes substantial and systematic improvements. The Commission urges the President and the Secretary of State to implement and lead such a strategy. In light of the worsening situation in Sudan, and building on the policies it proposed last year, the Commission makes the following recommendations:

1. The U.S. government should appoint a nationally prominent individual who enjoys the trust and confidence of President Bush and Secretary of State Colin Powell, and who has appropriate authority and access, whose sole responsibility is directed to bringing about a peaceful and just settlement of the war in Sudan and an end to the religious freedom abuses and humanitarian atrocities committed by the Sudanese government. The U.S. should not appoint

an ambassador to Sudan at this time.

The U.S. government needs a high-level, high-profile individual devoted full-time to carrying out diplomatic initiatives as well as coordinating policy among U.S. government agencies. Specifically, this envoy would seek to exert influence on the government of Sudan and Sudanese opposition factions in order to bring about a cessation of human rights abuses and a peaceful and just settlement of the conflict. The Special Envoy for Sudan appointed by the Clinton administration, Harry A. Johnston, despite good intentions and hard work, did not have the international prominence, the high-level access, or a mandate sufficiently broad to command the attention of the Sudanese government, or to engage regional leaders and European allies at the highest diplomatic levels. All of these attributes are necessary to make progress on ending the war in Sudan. In addition, because the issues in the Sudan conflict cut across different regions of the world, as well as touch on international financial markets, the envoy should have both the stature and the authority to work within and across U.S. government agencies.

Because the situation in Sudan continues to deteriorate and its government has not taken effective steps to address any of the serious concerns of the U.S. over religious freedom and other human rights, the U.S. should not at this time appoint an ambassador to Sudan. Any embassy activity should be directed by a chargé d'affaires. If the government of Sudan demonstrates substantial, sustained, and comprehensive improvement in the human rights conditions for the people throughout the country, the U.S. government should seriously consider raising the level of diplomatic representation.

2. The U.S. government should continue to increase the amount of its humanitarian assistance that passes outside of Operation Lifeline Sudan (OLS) and should press OLS to deliver aid wherever it is needed, especially the Nuba Mountains, with or without the approval of the Sudanese government.

In order to limit the Sudanese government's ability to employ food assistance as a weapon against its opponents, the U.S. government should work vigorously to ensure that its food aid gets to the people in Sudan who need it. The government of Sudan continues to restrict access to certain areas of the country by OLS. Famine also continues and in mid-February 2001 it was reported that famine led to the displacement of 98,000 people in the eastern part of the country. In part because of the ongoing restrictions on access, the U.S. has been increasing the percentage of aid that it has provided outside of the OLS system, from 14 percent in fiscal year 1997 to 34 percent in fiscal year 2000. A further increase reportedly is planned for fiscal year 2001. As long as OLS is regularly prevented from reaching those in need, this shift to increasing reliance on non-OLS aid should continue. Moreover, U.S. efforts to strengthen the capacity of humanitarian groups delivering aid outside of OLS should also continue. In addition, the U.S. should urge other donor countries to provide aid outside of the OLS framework. Khartoum's bans on humanitarian flights apparently have the effect of limiting some non-OLS relief flights as well.

In addition to the increase in non-OLS aid, the U.S. - which is OLS's largest contributor - should support OLS efforts to expand and maintain its access throughout the country, especially the Nuba Mountain area. Also, the U.S. government should continue to work with the SPLM/A to ensure that it does not interdict, divert, or obstruct the provision of humanitarian assistance in areas under its control. Finally, the U.S. should stop using non-governmental organizations that discriminate on the basis of the religion of recipients in their distribution of aid and services.

3. The U.S. government should increase its assistance to southern Sudan and the NDA. The State Department approved but did not implement the authority granted to it by Congress to provide non-lethal aid directly to communities in opposition-controlled areas of Sudan through local organizations. However, in fiscal year 2000 approximately \$3 million in aid was given to local communities in southern Sudan under the STAR program. The purpose of this aid is to stimulate a market economy and increase food production and security. Such aid is critically important to improving living conditions and promoting civil society in southern Sudan, and the U.S. government should increase these programs.

In addition to the STAR program, the Clinton administration had plans to provide \$3 million of assistance to the political opposition in Sudan - the NDA - for building its capacity to participate in the peace process. Congress has authorized up to \$10 million in aid to southern Sudan for fiscal year 2001; the State Department is actively considering whether to use these authorized funds. This type of aid is consistent with the Commission's recommendations from last year and should be increased. However, aid should not be given to any opposition group unless it is making substantial and verifiable efforts to adhere to international human rights norms.

4. The U.S. government should launch a major diplomatic initiative aimed at enlisting international pressure to stop the Sudanese government's bombing of civilian and humanitarian targets; ground attacks on civilian villages, feeding centers, and hospitals; slave raids; and instigation of tribal warfare.

There are numerous reports of the escalating frequency, accuracy, and deadliness of the Sudanese government's bombing of civilian and humanitarian targets. It is unconscionable that the regime in Khartoum can engage in such flagrant violations of human rights and humanitarian law on a regular basis without significant negative reactions from governments committed to respect for religious freedom and human rights. The U.S. government should work vigorously to develop international support for diplomatic and economic pressure on the government of Sudan to stop bombing civilian and humanitarian targets. The U.S. should introduce resolutions at the UN, including in the UN Commission on Human Rights, condemning the government of Sudan and should initiate a debate in the UN Security Council on Khartoum's egregious violations of the Geneva Convention, such as bombings and ground attacks on civilian villages, feeding centers, and hospitals; slave raids;

and instigation of tribal warfare.

5. The U.S. government should strengthen economic sanctions against Sudan and should urge other countries to adopt similar policies. The U.S. should prohibit any foreign company from raising capital or listing its securities in U.S. markets as long as it is engaged in the development of oil and gas fields in Sudan. The U.S. government should not issue licenses permitting the import of gum arabic from Sudan to the United States.

U.S. economic sanctions against Sudan should be strengthened and not reduced. They should be strengthened by (a) prohibiting access to U.S. capital markets for those non-U.S. companies engaged in the development of the Sudanese oil and gas fields, and (b) not issuing further licenses for the import of gum arabic to the United States.

The Commission is aware of the current debate both internationally and in the U.S. on the effectiveness of economic sanctions generally. Unilateral economic sanctions by the U.S. have not prevented foreign investment in Sudan's oil business, which has, in turn, provided the Sudanese government with significant financial support for its egregious human rights and humanitarian abuses. However, it has not been established that U.S. sanctions have been completely ineffective. They can continue, for example, to slow the rate of increase of foreign investment in Sudan and oil revenues to the Sudanese government. One way to increase the potential effectiveness of the sanctions is to convince other economic powers to adopt similar policies. In this regard, the Commission urges the U.S. government to encourage economic pressure on the Sudanese government in its bilateral relations at all levels with countries that engage in substantial trade with or provide significant foreign investment to Sudan.

Current sanctions prohibit investment by U.S. companies in Sudan. They also prohibit transactions between U.S. companies and the Greater Nile Petroleum Operating Company (Sudan's oil consortium) or Sudapet (Sudan's petroleum company).

In the absence of multilateral economic sanctions, however, preventing access to U.S. capital markets by foreign companies engaged in the oil-development business in Sudan targets a specific weakness in the current U.S. sanctions regime. The Commission recommends that foreign corporations doing business with Sudan's petroleum industry be prohibited from issuing or listing its securities on U.S. capital markets.

The Commission does not lightly recommend these significant restrictions on U.S. capital markets access, but believes that the specific conditions in Sudan warrant them.xlvi

The government of Sudan is committing genocidal humanitarian and human rights abuses. There is a direct connection between oil production and those abuses. Foreign investment is critical to the development of Sudan's oil fields and maintaining oil revenues.<sup>xlvi</sup> Expanding U.S. sanctions in the area of capital markets access specifically targets what is likely the most significant resource that the Sudanese government has to prosecute the war.

Moreover, the issue of continuing economic sanctions against Sudan is one of principle as well as effectiveness. Reducing sanctions against Sudan at this time - after the Sudanese government has made no concessions but rather has increased its civilian bombings and other atrocities - would be to reward the latter for worsening behavior. This will send the wrong message to the government of Sudan and the international community.

With respect to licenses granted in 1999 and 2000 to permit U.S. imports of gum arabic, the purpose of granting those licenses was to allow U.S. importers time to identify alternative sources of supply. Because a reasonable amount of time has elapsed, no further licenses should be granted, and efforts should be continued to identify alternate suppliers of this product. If the government of Sudan demonstrates substantial, sustained, and comprehensive improvement in the human rights conditions for people throughout the country, the U.S. government should seriously re-evaluate its sanctions regime.

6. Companies that are doing business in Sudan should be required to disclose the nature and extent of that business in connection with their access to U.S. capital markets.

There is a significant, undesirable gap in U.S. law regarding Sudan and other CPC countries: In many cases, foreign companies that are doing business in Sudan can sell securities on U.S. markets without having to disclose fully (1) the details of the particular business activities in Sudan, including plans for expansion or diversification; (2) the identity of all agencies of the Sudanese government with which the companies are doing business; (3) the relationship of the business activities to violations of religious freedom and other human rights in Sudan; or (4) the contribution that the proceeds raised in the U.S. debt and equity markets will make to these business activities and hence to those violations.<sup>xlvi</sup>

Across-the-board full disclosure of these details would prompt corporate managers to work to prevent their companies from supporting or facilitating these violations. It also would aid (1) U.S. investors in deciding whether to purchase the securities; (2) shareholders in exercising their ownership rights (including proposing shareholder resolutions for annual meetings and proxy statements); (3) Treasury's Office of Foreign Assets Control (OFAC) in enforcing existing sanctions; and (4) U.S. policymakers in formulating sound policy with respect to Sudan and U.S. capital markets. The Commission recommends that the U.S. require such disclosure.

7. The U.S. government should intensify its support for the peace process and for the Declaration of Principles, and make a just and lasting peace a top priority of this administration's global agenda.

Peace negotiations under the auspices of the Intergovernmental Authority on Development (IGAD), have produced no significant results in the past year, and indeed no longer continue. The Sudanese government remains publicly committed to negotiations using the framework of the Declaration of Principles (DOP). The U.S. government should support any viable peace process under the DOP and should encourage the inclusion of the NDA in peace negotiations. The U.S. should also consider direct involvement in negotiations with both the Sudanese government and the opposition. Moreover, as the Commission recommended last year, the U.S. government should use its diplomatic influence to urge Egypt to be a constructive partner in the peace process.

8. The U.S. government should work to increase human rights and media reporting on abuses in Sudan, including supporting, diplomatically and financially, the placement of human rights monitors in southern Sudan and in surrounding countries where refugee populations are present.

Humanitarian and religious groups, human rights organizations, and journalists have labored under very difficult conditions to bring to light the human suffering and human rights abuses in Sudan. Their efforts are severely hampered by the Sudanese government's restrictions on access to many parts of the country. As a result, the full extent of the abuses being committed in Sudan is still not known. The U.S. government should urge the Sudanese government to allow human rights monitors and the media to operate throughout the country, and should work with opposition groups to ensure such access in the areas under their control. The U.S. should support the deployment of human rights monitors in southern Sudan (including monitoring teams that can verify reports of bombings) and in surrounding countries where Sudanese refugees are concentrated.

Concurrence with Qualifications to Recommendations 3 and 5

Dr. Laila Al-Marayati

March 10, 2001

Recommendation 3: The U.S. government should increase its assistance to southern Sudan and the NDA.



This recommendation differs from that in the USCIRF May 2000 report, which advocated aid to the SPLA, and other opposition groups including the NDA, in the event that the Khartoum government failed to make substantial improvements during a six-to-12 month period with respect to human rights abuses (see May 2000 Report, II.A., 1.2e-f). However, due to the dominance of the SPLA in southern Sudan, it is possible to assume that non-lethal aid to opposition forces will also fall into the hands of the SPLA which is responsible for human rights abuses that should preclude any support by the U.S. government (see Al-Marayati Dissent to II.A., 1.2e-f, May 2000 report).

In addition, the current statement by the USCIRF mentions that aid should not be given to "any opposition group unless it is making verifiable efforts to adhere to international human rights norms." Due to the degree of documented human rights abuses by the SPLA (e.g. manipulation and diversion of humanitarian aid, conscription of child soldiers into combat, arbitrary arrests, abductions, etc.), actual compliance with international norms (not simply "efforts") must be significant and sustained before any aid would be considered. At this time, no such improvements have been verified by either the U.S. government or credible non-governmental human rights organizations in the region.

Finally, aid to the opposition, unless to a much greater degree than heretofore applied by the U.S. government, is unlikely to shift the balance of power enough to pose a significant threat to the Khartoum government and thereby lead to an end to the fighting. Therefore, recommendations for assistance to opposition groups (other than humanitarian aid) should be considered in light of their overall effect on the civil war.

Recommendation 5: The U.S. government should strengthen economic sanctions against Sudan and should urge other countries to adopt similar policies.

The Commission's report rightly points out that unilateral sanctions have not prevented foreign investment in Sudan, particularly in the oil industry whose revenues have enabled the Sudanese government to strengthen its position with respect to the war. While one approach is to push for broader, multilateral support and to close loopholes at least with respect to U.S. financial markets, the lack of effectiveness of sanctions to date requires serious analysis by the U.S. government to determine if the sanctions regime itself is a useful tool for effecting change and improving the situation with respect to religious freedom in Sudan.

Therefore, in addition to the Commission's recommendations in the report, I would urge the administration to review the sanctions policy as part of an overall approach to helping solve the problems that plague Sudan at this time. First, the U.S. government should determine

if current sanctions against Sudan and their expansion will have the desired result with respect to human rights in general and religious freedom in particular. Second, if the U.S. government deems that strengthening the sanctions regime is indicated, it also needs to determine when such sanctions could be lifted, such as in an incremental fashion as Sudanese government policy and practice show satisfactory progress in ending widespread human rights abuses.

## Footnotes

i U.S. Department of State, Interagency Review of U.S. Civilian Humanitarian and Transition Programs, Annex 3 (January 2000).

ii See Report of the United States Commission on International Religious Freedom (May 1, 2000) ("USCIRF 2000 Annual Report"); Staff Memorandum for the Chairman: Religious Freedom in Sudan, China, and Russia (May 1, 2000) ("Staff Memorandum"). Recent human rights reports on Sudan include Amnesty International, Sudan: Oil in Sudan: Deteriorating Human Rights (March 5, 2000) (<http://www.web.amnesty.org/ai.nsf/ai.nsf/index/AFR540012000>, accessed February 5, 2001) ("Oil in Sudan"); Amnesty International, Report 2000; Human Rights Watch, World Report 2001: Sudan; U.S. Department of State, 2000 Country Reports on Human Rights Practices, "Sudan," February 2001; John Harker, Human Security in Sudan: The Report of a Canadian Assessment Mission, prepared for the Minister of Foreign Affairs, January 2000 ("Harker Report"); Leonardo Franco, Special Rapporteur of the United Nations Commission on Human Rights, Situation of Human Rights in Sudan, September 11, 2000, U.N. Doc. No. A/55/374.

iii According to the State Department, the Sudanese government "bombed a hospital run by the NGO Samaritan's Purse in Lui in Western Equatoria. Norwegian People's Aid reported that on April 16, government forces dropped bombs near a child feeding compound. On July 28, in Akhuem in northern Bahr el-Ghazal, several bombs landed close to a Doctors Without Borders plane and near its health center, prompting the medical team to evacuate the area." 2000 Country Reports, "Sudan."

iv Information supplied by U.S. Committee for Refugees and Sudan Focal Point - Europe. See "Sudan's Human Rights and Humanitarian Emergency," testimony of Roger Winter, Executive Director, U.S. Committee for Refugees, before the Congressional Human Rights Caucus, September 28, 2000.

v Sudan Focal Point - Europe (2000).

vi According to Human Rights Watch, early in 2001 inter-factional fighting among the Nuer and between the Nuer and the Dinka - ignited by the government in Khartoum and the SPLM/A - reached dangerous proportions and aggravated conditions of famine and food availability in southern Sudan. See Human Rights Watch, Analysis of the Current Fighting and its Relation to Famine, March 2001, (<http://www.hrw.org/campaigns/sudan98/sudan-analysis.html>, accessed March 2, 2001).

viii Sudan Catholic Bishops' Conference (SCBC), Message to IGAD (September 15, 2000) (provided to USCIRF by SCBC).

ix See U.S. Department of State, " Report of Attack on UN Relief Base in Southern Sudan," March 1, 2001, (<http://www.state.gov/r/pa/prs/ps/index.cfm>, accessed March 20, 2001); Human Rights Watch, World Report 2001, "Sudan."

x Reuters, "Sudan Raiders Abduct 122 Women and Children in South," January 10, 2001. 2000 Country Reports, "Sudan," 4.

xii Private organizations that have engaged in redemption or "buy-back" and retrieval of slaves report that their efforts have targeted thousands of slaves in the past year. Christian Solidarity International, with the assistance of black African community leaders and Arab retrievers, claims to have liberated more than 38,000 Sudanese slaves since 1995. These "buybacks" have been criticized by some aid agencies, human rights groups, and by UNICEF.

xiii Human Rights Watch, World Report 2001, "Sudan," at 82-83. See also, 2000 Country Reports, "Sudan" (Internet), 4.

xvi Reuters, "Sudan Raiders Abduct 122 Women and Children in South," January 10, 2001.

xv 2000 Country Reports, "Sudan" (Internet), 14.

xvi Ibid.

xvii Charles Omondi, "Armed Policemen Storm the Compound of the Sudan Catholic Bishops' Conference (SCBC)," (<http://SudanInfonet.tripod.com>, accessed February 17, 2001).

xviii See Harker Report.

xix 2000 Country Reports, "Sudan" (Internet), 4; Christian Aid (UK), *The Scorched Earth: Oil and War in Sudan* (March 15, 2001) (<http://www.christian-aid.org.uk>, accessed March 15, 2001). In this report, Christian Aid warns "what is happening in Upper Nile is only a foretaste of what could happen all across the south if the international community continues to turn a blind eye to attacks on civilians in the name of profit."

xx

This small oil company operates south of Bentiu. Lundin Oil is a prime beneficiary of the newly completed road that extends 60 miles south of Bentiu and allows not only oil equipment but also heavy military equipment to move south. Communication to USCIRF from Dr. Eric Reeves dated January 14, 2001.

xxi CNPC is the state-owned oil company of the People's Republic of China. It owns a 40 percent interest in the Greater Nile Petroleum Operating Company (GNPOC). CNPC is also very active in the Adar Yel concession area in eastern Upper Nile.

xxii Petronas is the state-owned oil company of Malaysia. An original GNPOC partner, Petronas reportedly has a 30 percent stake in the consortium. Petronas has also the "right of refusal" on Talisman Energy Corporation's 25 percent share in GNPOC, should Talisman withdraw.

xxiii According to Amnesty

International, the following non-Sudanese companies are involved in the building of Sudan's oil pipeline: Denim Pipeline Construction Ltd (Canada), Roll'n Oil Field Industries (Canada), Weir Pumps Ltd (UK), Allen Power Engineering Ltd (UK), Mannesmann (Germany). See *Oil in Sudan*. It is also reported that Rolls Royce (UK) is involved in the pipeline. For further details see *The Observer*, March 11, 2001.

xxiv Agence France-Presse, "Russian Companies to Start Oil Operations in Sudan," February 9, 2001.

xxv 2000 USCIRF Report, 37-39.

xxvi See SEC Registration Statement, China Petroleum & Chemical Corporation (Reg. No. 333-12502); Far Eastern Economic Review, November 8, 2000.

xxvii The Wall Street Journal, October 11, 2000.

xxviii Agence France-Presse, February 15, 2001.

xxix 2000 USCIRF Report, Recommendation 1.2, 29-33.

xxx

In contrast, Secretary of State Madeleine Albright condemned Sudan's aerial bombings on several occasions, including after a meeting arranged by the Commission with a Sudanese bishop in February 2000. In addition, Dr. Susan Rice, then U.S. Assistant Secretary of State for African Affairs, bravely toured southern Sudan in November 2000. Dr. Rice interviewed civilian victims of Khartoum's bombing and enslavement campaigns, and publicly reported on and condemned them.

xxxi 2000 USCIRF Report, Recommendation 1.2.b, 30.

xxxii 2000 USCIRF Report, Recommendations 1.5 and 1.6, 34-35.

xxxiii 2000 USCIRF Report, Recommendation 1.7, 35.

xxxiv 2000 USCIRF Report, Recommendations 1.8 and 1.9, 35-37.

xxxvi Recommendation 6, *infra* at p. 12.

xxxvi 2000 USCIRF Report, Recommendation 1.13, 39;  
letter dated January 9, 2001, from David B.H. Martin, Director,  
Division of Corporation Finance, U.S. Securities and Exchange Commission,  
to Elliott Abrams, Chairman, USCIRF.

xxxvii 2000 USCIRF Report, Recommendations 1.10, 1.11, and 1.12, 37-39; letter dated November 15, 2000, from R. Richard Newcomb, Director, Office of Foreign Assets Control, Department of the Treasury, to Elliott Abrams, Chairman, USCIRF. See 2000 USCIRF Report, 26-27, 35-39; Staff Memorandum, 65-80.

xxxviii Recommendation 5, *infra* at p. 65.

xxxix 2000 USCIRF Report, Recommendation 1.5, 34.

xl 2000 USCIRF Report, Recommendation 1.2.e, 32.

xli 2000 USCIRF Report, Recommendation 1.4, 34.

xliv 2000 USCIRF Report, Recommendation 1.1, 28-29.

xlvi Michel Sailhan, "Two Million Sudanese Displaced," *The Mail and Guardian*, February 20, 2001.

xlvii 2000 USCIRF Report, Recommendation 1.2.e, 32.

xlviii 2000 USCIRF Report, Recommendation 1.2.b, 30.

xlvi

As of the date of this report, the Commission has not determined if a policy against issuing or listing securities on U.S. markets should apply to companies doing business in other countries designated as Countries of Particular Concern under IRFA.

xlvi Energy Information Administration, U.S. Department of Energy, Sudan, November 2000, (<http://www.eia.doe.gov/emeu/cabs/sudan2.html> accessed November 11, 2000).

xlvi Staff Memorandum, 65-80.